IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 16878 of 2004

Between:

M/s Ushodaya Enterprises, Jagadamba Junction, Visakhapatnam, rep.by its Manager Mr.Y.Venkateswara Rao

..... PETITIONER

AND

1 The Commercial Tax Officer, China Waltair, Visakhapatnam
2 The Deputy Commissioner (CT), Visakhapatnam Division, Visakhapatnam
3 The Additional Commissioner (CT) Legal (FAC), Andhra Pradesh, Nampally,
Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ or Order or direction quashing the order of the 3rd Respondent in CCT's Ref.No.LV(3)/1578/2003 dated 26-08-2004 and restrain the 1st Respondent from taking any coercive steps for collection of disputed tax of Rs.1,84,960/- pending disposal of the appeal filed before the Sales Tax Appellate Tribunal and pas such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.S.DWARAKANATH

Counsel for the Respondents : GP FOR COMMERCIAL TAXES

The Court at the admission stage, made the following :

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ORDER : (per Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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(BILAL NAZKI, J)

22nd September, 2004.

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(S.ANANDA REDDY, J)

ajr

To

1 The Commercial Tax Officer, China Waltair, Visakhapatnam
2 The Deputy Commissioner (CT), Visakhapatnam Division, Visakhapatnam
3 The Additional Commissioner (CT) Legal (FAC), Andhra Pradesh, Nampally,
Hyderabad
4 Two C.Cs. to the G.P. for Commercial Taxes, High Court Buildings,
Hyderabad (O.U.T).
5 Two C.D. copies.